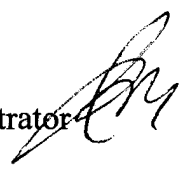


COUNTY OF YORK

MEMORANDUM

DATE: October 17, 2005 (BOS Mtg.10/25/05)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator 

SUBJECT: Application No. UP-680-05, SprintCom, Inc.

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 160-foot freestanding monopole communications tower with associated ground-mounted equipment on vacant property located at 2239 Hampton Highway and further identified as Assessor's Parcel No. 37-16A. Access to the facility will be via a new driveway within a 15-foot access easement connecting the facility to Hampton Highway.

DESCRIPTION

- Property Owner: Ray Y. Jones; applicant is owner's lessee
- Location: 2239 Hampton Highway (Route 134)
- Area: 1.01 acres
- Frontage: Approximately 209 feet on Hampton Highway
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: General Business
- Zoning Classification: GB – General business
- Existing Development: None
- Surrounding Development:
 - North: Vacant parcel, single family detached residential beyond
 - East: Vacant
 - South: Single family detached residential, convenience store/gas station across Hampton Highway
 - West: Church
- Proposed Development: 160-foot freestanding monopole communications tower with associated ground-mounted equipment

CONSIDERATIONS/CONCLUSIONS

1. The proposed tower facility consists of a 160-foot monopole with associated equipment shelters. The facility is to be surrounded by an 8-foot high chain link fence and landscape screening. Access is to be via a proposed 12-foot wide gravel driveway. The proposed tower facility is to be located in the center of the subject parcel and approximately 100 feet from the Hampton Highway right-of-way. The closest dwellings are located approximately 480 feet (northwest of the parcel) and approximately 300 feet (across Hampton Highway) from the tower base. The majority of the parcel is heavily wooded, and a minimum amount of clearing would be needed to install the proposed facility. The applicant is leasing the entire property even though it projects that the ultimate site coverage would be no more than a 100 x 100-foot area with the monopole at its center. (Copies of photo simulations of the proposed tower provided by the applicant are attached.)
2. Land uses bordering the site include a church on the west side of the parcel, vacant property to the north and east, and a convenience store/gasoline station and single family detached home to the south across Hampton Highway. Surrounding zoning is GB (General Business) to the north, west and south, and the abutting parcel to the east (n/f Ponza) is split-zoned GB and R20 (Medium-density single-family residential). Further east of the Ponza and Randall properties is property that is proposed for development as an extension of Bayberry Lane (Churchill Estates expansion). The Bayberry lane right-of-way has already been platted and does not currently include a "stub" extension to the adjoining Ponza or Randall properties.
3. The applicant has indicated that existing PCS service along the Big Bethel Road corridor is currently limited to areas north of the Running Man and Woodlake Crossing subdivisions and south of the Newport News and Hampton city borders. Use of existing structures was considered, such as the existing electric line support towers within the Dominion Virginia Power utility easement located northeast of the subject site. However, no suitable existing facility sites were found that would provide the needed service to the deficient coverage area. The Zoning Ordinance limits communication towers to the RC, RR, GB, WC/I and EO districts by Special Use Permit and to the IL and IG districts as a matter of right. Given its need for coverage in the Big Bethel Road/Route 134 intersection area, the applicant focused its site search on properties classified GB-General Business and, therefore, has submitted this request for a new monopole on the subject property (zoned GB). The applicant's proposed tower would be a co-location site with space for two additional wireless communications providers.
4. The Federal Aviation Administration (FAA) will analyze the proposed tower to ensure that it will not infringe on air traffic flight patterns. If the FAA requires a permit for the construction of the tower, the applicant will need to provide evidence of FAA approval prior to the County's final approval for construction of the tower. A condition to this effect is included as part of the approving resolution.

5. As a condition of approval, the applicant will be required to submit a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower will not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
6. Although the Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers. They can also be overturned if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its September 14, 2005 meeting. Subsequent to considering the Planning staff's recommendation of approval and conducting a public hearing at which only the applicant spoke, the Commission voted 4:0 (Abel, Connor, Davis absent) to recommend approval.

COUNTY ADMINISTRATOR'S RECOMMENDATION

Land uses on the north side of Route 134 in the vicinity of the subject site are predominantly residential in nature, although some of the parcels (including the subject parcel) are zoned GB-General Business. Utilities Strategy 3.1 of the Comprehensive Plan discourages location of telecommunications towers in residential neighborhoods "unless there is no other practical option." The applicant has indicated that alternative locations were considered in establishing facilities to meet the need for expanded wireless coverage in the subject area. However, as there were no existing facilities available that satisfied coverage criteria, a new monopole facility somewhere within the GB-zoned area at the Big Bethel Road/Route 134 intersection area was deemed necessary by the applicant to meet customer demand for services. Utilities Strategy 3.5 further states that such structures "should blend into the surrounding environment when possible." The proposed tower is to be located in the immediate area of a church and heavily wooded vacant parcels. The visibility of the structure from Route 134 and from adjacent properties will be reduced somewhat given the proposed location approximately 90 feet off Route 134 and at the center of the site. Given the fact that the applicant is leasing the entire parcel, the surrounding tree buffer on this parcel would remain in place.

While location of the monopole and the associated ground-mounted equipment at the center of the site is good from an aesthetic standpoint, I have concerns about the inconsistency of a use such as this with the Board's goal to seek the highest economic return for commercially-zoned properties and also about the possible detrimental impact that the proposed use could have with respect to the viability and economic potential of the entire GB-zoned area on the northeast quadrant of this intersection. Since these issues were not covered in the Planning staff's report to the Planning Commission, I will address

them here. This proposal would, in fact, take a 1-acre parcel out of the commercial land inventory and there would be no retail sales tax revenues or employment generated by the site. However, since the Zoning Ordinance provides an opportunity for such facilities in the GB, EO and WC/I districts, this would not be an impact unique to this site. In terms of the viability and potential of the entire commercial node, it appears that there could be some opportunities for land assemblage (e.g., the Ponza, Randall and subject properties represent approximately 6-acres of GB property that could be assembled into a single development site). The subject property is situated virtually in the center of the commercial zone frontage and encumbering it with a communications tower and the desired wooded buffers around that tower would remove a valuable component of the potential land assemblage. Alternatively, a location along the outer perimeter of the commercially-zoned area (for example, along the northern or eastern boundary of the existing GB-zoned area) would have a less damaging effect on the assemblage potential.

While I have reservations about the potential impact of the communications tower as to future land assemblage, the existing church to the west of the site likely presents an equal challenge. Given the applicant's coverage needs for this area, and the fact that the site search must be within the GB-zoned area, and the attention the applicant has given to the aesthetic considerations, I concur with the Planning Commission's recommendation for approval. However, I believe this is a very close call and should the Board desire to deny the application, I have also prepared proposed Resolution No. R05-180. While your practice normally does not require a resolution of for such an action, the County Attorney advises that the Federal statutes require a specific written record (i.e., a resolution) of the denial in the case of communications towers. -

Carter/3337:AMP

Attachments

- Excerpts from September 14, 2005 Planning Commission meeting minutes
- Zoning Map
- Property Ownership Map
- Sketch Plan
- Photo-simulations of Proposed Tower
- Proposed Resolution No. R05-169
- Proposed Resolution No. R05-180